



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of the Inspector General
Board of Review

Jeffrey H. Coben, MD
Interim Cabinet Secretary

Sheila Lee
Interim Inspector General

June 6, 2023

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 23-BOR-1622

Dear [REDACTED]:

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

In arriving at a decision, the State Hearing Officer is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Kristi Logan
Certified State Hearing Officer
Member, State Board of Review

Encl: Recourse to Hearing Decision
Form IG-BR-29

cc: Anisha Eye, [REDACTED] DHHR

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BOARD OF REVIEW**

████████████████████,

Defendant,

v.

Action Number: 23-BOR-1622

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Movant.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer resulting from an Administrative Disqualification Hearing for ██████████ requested by the Movant on April 28, 2023. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual and Federal Regulations at 7 CFR § 273.16. The hearing was convened on June 6, 2023.

The matter before the Hearing Officer arises from a request by the Movant for a determination as to whether the Defendant has committed an Intentional Program Violation and should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for twelve (12) months.

At the hearing, the Movant appeared by Anisha Eye, Repayment Investigator. The Defendant was self-represented. The witnesses were placed under oath, and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 Hearing Summary
- M-2 Case Members History Screen Print
- M-3 SNAP Issuance History-Disbursement Screen Prints
- M-4 SNAP Allotment Determination Screen Prints
- M-5 Non-Financial Eligibility Determination Screen Prints
- M-6 SNAP Claim Determination Forms
- M-7 SNAP Claim Calculation Sheets
- M-8 SNAP Application received October 4, 2021
- M-9 SNAP 6 or 12-Month Contact Form received March 1, 2022
- M-10 Application for Emergency Assistance received April 7, 2022

- M-11 SNAP and Medicaid Review Form received August 29, 2022
- M-12 Employee Wage Data Screen Print
- M-13 Employment Verification from [REDACTED]
- M-14 Waiver of Administrative Disqualification Hearing (unsigned copy)
- M-15 Advance Notice of Administrative Disqualification Hearing Waiver dated April 17, 2023
- M-16 West Virginia Income Maintenance Manual §§1.2.4, 11.2, and 11.6
- M-17 Code of Federal Regulations – 7 CFR §273.16

Defendant’s Exhibits:

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) The Defendant submitted a SNAP application on October 4, 2021, and reported no income for her household (Exhibit M-8).
- 2) SNAP benefits were approved for a 3-person assistance group (AG) based upon the information provided by the Defendant (Exhibits M-3 and M-4).
- 3) The Defendant submitted a periodic reporting form to the Movant on March 1, 2022. The Defendant reported no income for her household (Exhibit M-9).
- 4) The Defendant applied for Emergency Assistance benefits on April 7, 2022, and reported no income for the household (Exhibit M-10).
- 5) The Defendant completed a SNAP eligibility review on August 29, 2022. She reported no income for her household (Exhibit M-11).
- 6) The Movant verified with [REDACTED] that the Defendant was hired on May 17, 2021, and received regular earnings until her separation from employment on September 13, 2022 (Exhibits M-12 and M-13).

APPLICABLE POLICY

Code of Federal Regulations 7 CFR §273.16 states that an individual making a false or misleading statement, or misrepresenting, concealing or withholding facts, violating the Food Stamp Program (SNAP), or any State statute for the purpose of acquiring, receiving, possessing or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system has committed an Intentional Program Violation (IPV).

West Virginia Income Maintenance Manual §11.2.3.B states that IPV's include making false or misleading statements, misrepresenting facts, concealing or withholding information, and committing any act that violates the Food Stamp Act of 1977, SNAP regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of SNAP benefits. The client(s) who is found to have committed an IPV is ineligible to participate in the program for a specified time, depending on the number of offenses committed.

Code of Federal Regulations, 7 CFR §273.16(b), describes the Disqualification penalties:

(1) Individuals found to have committed an Intentional Program Violation either through an administrative disqualification hearing or by a Federal, State or local court, or who have signed either a waiver of right to an administrative disqualification hearing or a disqualification consent agreement in cases referred for prosecution, shall be ineligible to participate in the Program:

(i) For a period of twelve months for the first Intentional Program Violation, except as provided under paragraphs (b)(2), (b)(3), (b)(4), and (b)(5) of this section;

(ii) For a period of twenty-four months upon the second occasion of any Intentional Program Violation, except as provided in paragraphs (b)(2), (b)(3), (b)(4), and (b)(5) of this section; and

(iii) Permanently for the third occasion of any Intentional Program Violation.

(13) The individual must be notified in writing once it is determined that he/she is to be disqualified. The disqualification period shall begin no later than the second month which follows the date the individual receives written notice of the disqualification. The disqualification period must continue uninterrupted until completed regardless of the eligibility of the disqualified individual's household.

West Virginia Income Maintenance Manual §1.2.4 states that it is the client's responsibility to provide information about his/her circumstances, so the Worker is able to make a correct decision about his/her eligibility.

DISCUSSION

Federal regulations define an Intentional Program Violation as making a false statement related to the acquisition of SNAP benefits. An individual who is found to have committed an Intentional Program Violation is disqualified from participation in SNAP.

The Defendant contended that she did not intentionally try to steal benefits or make a false statement. The Defendant testified that she thought she had reported her employment when she returned to work. The Defendant stated she is no longer working and is currently receiving Unemployment Compensation benefits.

The Defendant's argument that she did not intentionally conceal her employment is without merit. The Defendant made four false statements by reporting no income on four separate applications and reviews submitted to the Movant. The Defendant received regular, weekly earnings from [REDACTED] throughout her receipt of SNAP benefits from October 2021

through September 2022. The Defendant had ample opportunity to accurately report her household's income beginning with the October 2021 SNAP application and the three subsequent applications and reviews.

The Defendant made false statements on the October 2021 SNAP application, March 2022 SNAP periodic reporting form, April 2022 application for Emergency Assistance and the August 2022 SNAP review form. By falsely reporting that she had no income, the Defendant received SNAP benefits for which she was not entitled to receive. The Defendant's actions meet the definition of an Intentional Program Violation.

CONCLUSIONS OF LAW

- 1) The Defendant made false statements on her October 2021 SNAP application, March 2022 SNAP periodic reporting form, April 2022 application for Emergency Assistance and the August 2022 SNAP review form.
- 2) The Defendant received regular earnings from [REDACTED] from May 2021 through September 2022.
- 3) The act of making a false statement to obtain SNAP benefits constitutes an Intentional Program Violation.
- 4) The penalty for a first offense Intentional Program Violation is exclusion from participation in SNAP for 12 months.

DECISION

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation. As this is the Defendant's first offense, she will be excluded from participation in the Supplemental Nutrition Assistance Program for 12 months, effective July 1, 2023.

ENTERED this 6th day of June 2023.

Kristi Logan
Certified State Hearing Officer